

Senate File 434 - Introduced

SENATE FILE 434

BY WHITING

A BILL FOR

1 An Act creating a private instruction organization tax credit
2 available against the individual and corporate income taxes,
3 and including effective date and retroactive applicability
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 422.11X Private instruction
2 organization tax credit.

3 1. The taxes imposed under this subchapter, less the credits
4 allowed under section 422.12, shall be reduced by a private
5 instruction tax credit equal to sixty-five percent of the
6 amount of the voluntary cash or noncash contributions made
7 by the taxpayer during the tax year to a private instruction
8 organization, subject to the maximum total value of tax credits
9 allowed in subsection 8. The tax credit shall be claimed by
10 use of a tax credit certificate as provided in subsection 7.

11 2. To be eligible for this credit, all of the following
12 shall apply:

13 a. A deduction pursuant to section 170 of the Internal
14 Revenue Code for any amount of the contribution is not taken
15 for state tax purposes.

16 b. The contribution does not designate that any part of the
17 contribution be used for the direct benefit of any dependent of
18 the taxpayer or any other student designated by the taxpayer.

19 c. The value of a noncash contribution shall be appraised
20 pursuant to rules of the director.

21 3. Any credit in excess of the tax liability is not
22 refundable but the excess for the tax year may be credited to
23 the tax liability for the following five tax years or until
24 depleted, whichever is the earlier.

25 4. Married taxpayers who file separate returns or file
26 separately on a combined return form must determine the tax
27 credit under subsection 1 based upon their combined net income
28 and allocate the total credit amount to each spouse in the
29 proportion that each spouse's respective net income bears to
30 the total combined net income. Nonresidents or part-year
31 residents of Iowa must determine their tax credit in the ratio
32 of their Iowa source net income to their all source net income.
33 Nonresidents or part-year residents who are married and elect
34 to file separate returns or to file separately on a combined
35 return form must allocate the tax credit between the spouses

1 in the ratio of each spouse's Iowa source net income to the
2 combined Iowa source net income of the taxpayers.

3 5. An individual may claim the tax credit allowed a
4 partnership, limited liability company, S corporation, estate,
5 or trust electing to have the income taxed directly to the
6 individual. The amount claimed by the individual shall be
7 based upon the pro rata share of the individual's earnings of
8 the partnership, limited liability company, S corporation,
9 estate, or trust.

10 6. For purposes of this section:

11 a. "*Eligible student*" means a student who is a member of
12 a household whose total annual income during the calendar
13 year before the student receives a grant for purposes of this
14 section does not exceed an amount equal to four times the most
15 recently published federal poverty guidelines in the federal
16 register by the United States department of health and human
17 services.

18 b. "*Grant*" means grants to students to cover all or part of
19 qualified private instruction.

20 c. "*Private instruction organization*" means a charitable
21 organization in this state that is exempt from federal taxation
22 under section 501(c)(3) of the Internal Revenue Code and that
23 does all of the following:

24 (1) Allocates at least ninety percent of its annual revenue
25 in grants for eligible students to allow them to receive
26 qualified private instructions of their parents' choice.

27 (2) Only awards grants to eligible students who reside in
28 Iowa.

29 (3) Provides grants to eligible students without limiting
30 availability to a type of qualified private instruction.

31 (4) Only provides grants to eligible students in a certain
32 geographic area within the state.

33 (5) Prepares an annual reviewed financial statement
34 certified by a public accounting firm.

35 d. "*Qualified private instruction*" means independent

1 private instruction as defined in section 299A.1, subsection
2 2, paragraph "b", competent private instruction under section
3 299A.2, or private instruction by a nonlicensed person under
4 section 299A.3.

5 7. a. In order for the taxpayer to claim the private
6 instruction organization tax credit under subsection 1, a
7 tax credit certificate issued by the private instruction
8 organization to which the contribution was made shall be
9 included with the person's tax return. The tax credit
10 certificate shall contain the taxpayer's name, address, tax
11 identification number, the amount of the contribution, the
12 amount of the credit, and other information required by the
13 department.

14 b. (1) The department shall authorize a private instruction
15 organization to issue tax credit certificates for contributions
16 made to the private instruction organization, limited by the
17 maximum total dollar value of the tax credits available for the
18 calendar year in subsection 8. The aggregate amount of tax
19 credit certificates that the department shall authorize for a
20 private instruction organization for a calendar year shall be
21 determined for that organization by the department equal to the
22 product of the following:

23 (a) The maximum total dollar value of the tax credits
24 available for the calendar year.

25 (b) The ratio of the number of households submitting a
26 participation form to the department for a particular private
27 instruction organization to the total participation forms
28 submitted.

29 (2) However, a private instruction organization shall not
30 be authorized to issue tax credit certificates unless the
31 organization is controlled by a board of directors consisting
32 of at least seven members. The names and addresses of the
33 members shall be provided to the department and shall be made
34 available by the department to the public, notwithstanding any
35 state confidentiality restrictions.

1 *c.* Pursuant to rules of the department, a private
 2 instruction organization shall initially register with the
 3 department. The organization's registration shall include
 4 proof of section 501(c)(3) status and provide the geographic
 5 area the private instruction organization serves. Once the
 6 private instruction organization has registered, it is not
 7 required to subsequently register unless the geographic area
 8 it serves changes.

9 *d.* Each household that receives funds from a private
 10 instruction organization shall submit a participation form
 11 annually to the department by November 1. For the 2021
 12 calendar year only, each household served by a private
 13 instruction organization shall submit a participation form to
 14 the department by August 1, 2021.

15 8. The maximum total dollar value of the tax credits for
 16 the 2021 calendar year shall not exceed one-half of the total
 17 approved tax credits calculated pursuant to section 422.11S,
 18 subsection 8, for the 2021 calendar year. For calendar years
 19 beginning on or after January 1, 2022, the maximum total value
 20 of tax credits shall not exceed the total approved tax credits
 21 calculated pursuant to section 422.11S, subsection 8, for the
 22 same corresponding calendar year.

23 9. Each year by December 1, the department shall authorize
 24 private instruction organizations to issue tax credit
 25 certificates for the following calendar year. However, for the
 26 2021 calendar year only, the department, by September 1, 2021,
 27 shall authorize private instruction organizations to issue tax
 28 credit certificates for the 2021 calendar year.

29 10. A private instruction organization that receives a
 30 voluntary cash or noncash contribution pursuant to this section
 31 shall report to the department, on a form prescribed by the
 32 department, by January 12 of each calendar year all of the
 33 following information:

34 *a.* The name and address of the members and the chairperson
 35 of the governing board of the private instruction organization.

1 guidelines. The contribution may not be deducted as a
2 charitable deduction for state tax purposes or be designated
3 for the direct benefit of a dependent or any other student
4 designated by the taxpayer.

5 The private instruction organization must limit the grants
6 to students who reside in Iowa, must provide grants without
7 limiting the type of private instruction received, and only
8 provide grants to students in a certain geographic area.

9 The tax credit is claimed by attaching a tax credit
10 certificate to the taxpayer's tax return. A private
11 instruction organization is authorized to issue a tax credit
12 certificate in an amount determined by the department. The
13 amount available for each private instruction organization
14 is determined by multiplying the maximum total value of tax
15 credits available for the calendar year with the ratio of the
16 number of households submitting a participation form to the
17 department of revenue for a particular private instruction
18 organization to the total participation forms submitted. Each
19 household that receives funds from a private instruction
20 organization must submit a participation form to the department
21 of revenue. The maximum total value of tax credits available
22 each calendar year equals the maximum total value of tax
23 credits available for the school tuition organization tax
24 credit in Code section 422.11S, except for calendar year 2021,
25 the maximum amount available shall be one-half of the amount
26 available for school tuition organizations.

27 The private instruction organization must report to the
28 department of revenue by January 12 of each calendar year
29 the members of the governing board, the total dollar value
30 of contributions received and the total dollar value of
31 tax credits approved, a list of donors, the total number of
32 students receiving grants for the school year, the name and
33 address of each household utilizing the grants, and the name
34 of the person providing private instruction and the number of
35 eligible students receiving private instruction by the person.

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1 The bill takes effect upon enactment and applies
2 retroactively to tax years beginning on or after January 1,
3 2021.